

R E M A R K S

Careful review and examination of the subject application are noted and appreciated.

Applicant thanks Examiner George for the indication of allowable matter in claims 2, 9 and 23.

INFORMATION DISCLOSURE STATEMENT

The Examiner's attention is directed to the information disclosure statement filed concurrently with this response.

SUPPORT FOR THE CLAIM AMENDMENTS

Support for the claim amendments can be found in the specification, for example, on page 27 line 1 to page 29 line 7 and FIGS. 12-13, as originally filed, and claim 22 (copied into claim 20). Allowable dependent claims 2, 9 and 23 have been rewritten into independent form. Thus, no new matter has been added.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

The rejection of claim 13-19 and 23 under 35 U.S.C. §112, first paragraph written description, is respectfully traversed and should be withdrawn.

Claim 13 provides that (i) two or more of a plurality of channels are configured to store two or more fragments from a first of one or more data packets, respectively and (ii) the two or more channels are separated by at least one of the channels. Select

portions of the specification on page 27, line 1 to page 29, line 7 (adjusted to the correct figure numbers) read:

Referring to FIG. [12], a more detailed example of the frame 200 is shown **illustrating packet fragmentation across fixed bandwidth channels** in accordance with the present invention. ...

Instead of creating fixed bandwidth pipes by using virtual concatenation or implementing fixed-bandwidth inverse multiplexing pipes (as in conventional approaches), **the system 100 may have different types of packets to span over available spaces inside particular SONET/SDH frame.** The system 100 may provide an encapsulation 210 around the payload 212 that generally contains additional information about the packet.

Available space may be filled in with data packets as usual. **When a particular packet cannot be placed fully in the available space (e.g., because of an impending fixed bandwidth channel) the particular packet may be fragmented and may be continued in the next available space.** A packet (or a packet fragment) generally contains an offset (to be described in more detail in connection with FIG. [13]) that may point to the beginning of the next frame where the remainder of the packet is stored. ...

Referring to FIG. [13], an example of an offset locator operation 230 for a next packet fragment location is shown. **An offset pointer 232 may point to a header location 234 in the frame where the next portion of the packet is stored.** ...
(Emphasis added)

FIG. 12 illustrates a fragmented payload 212 (two black boxes connected by an arrow) having three fixed bandwidth channels between the fragments. FIG. 13 illustrates a Packet Fragment 1 (i) linked to a Packet Fragment 2 by an offset 232 pointing to a header 234 and (ii) having a Fixed Bandwidth Channel between the two fragments. Therefore, one of ordinary skill in the art viewing FIGS. 12 and 13 and the above reproduced text would understand that the Applicant had possession of the claimed invention at the time the application was filed. As such, claims 13-19 and 23 are fully

compliant with 35 U.S.C. §112, first paragraph, and the rejection should be withdrawn.

Furthermore, the arguments on pages 5-6 of the Office Action appear to improperly dismiss the arrow connecting the two black boxes in FIG. 12 and the text in lines 2-3 on page 27 of the application stating that FIG. 12 "illustrat[es] packet fragmentation across fixed bandwidth channels". To accept the argument in the Office Action that the left black box is not a fragment would mean that FIG. 12 does not show a fragmented packet and thus the text on page 27, lines 2-3 would have to be wrong. However, no evidence or convincing line of reasoning has been provided that the text describing FIG. 12 is anything other than what it appears to be. Therefore, the Office Action fails to establish that the claim language has no support in the specification. As such, the rejection should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

The rejection of claims 1, 3, 5-8, 10 and 20-22 under 35 U.S.C. §103(a) as being anticipated by Russell et al. '118 (hereafter Russell) in view of Kivi-Mannila et al. '750 (hereafter Kivi-Mannila) has been obviated in part by appropriate amendment, is respectfully traversed in part, and should be withdrawn.

Russell concerns a payload mapping in synchronous networks (Title). Kivi-Mannila concerns a method for receiving a signal used in a synchronous digital telecommunication system.

Claim 1 provides that at least one of two or more fragments comprise one or more offset locators configured to point to a next fragment of the two or more fragments. In contrast, Russell and MMM each appear to be silent regarding a fragment comprising an offset locator. Therefore, Russell and Kivi-Mannila, alone or in combination, do not appear to teach or suggest at least one of two of more fragments comprise one or more offset locators configured to point to a next fragment of the two or more fragments as presently claimed.

Furthermore, no clear and particular evidence of motivation is provided in the Office Action to combine Russell and Kivi-Mannila. The fact that references can be combined or modified is not sufficient to establish *prima facie* obviousness (MPEP §2143.01). Therefore, *prima facie* obviousness has not been established for lack of motivation evidence. As such, claim 1 is fully patentable over the cited references and the rejection should be withdrawn.

Claim 20 provides that a first of a plurality of fragments in a first channel is linked by an offset pointer to a second of the fragments in a second channel. In contrast, the Office Action does not provide any evidence or arguments that the references teach an offset pointer linking two fragments as presently claimed. Furthermore, the arguments in section 8 on page 4 of the Office Action that pointers 905 of Russell point to the start and end of Ethernet frames appears to be silent regarding the pointers 905 **linking** fragments of an Ethernet frame. Per the

arguments in section 6 on page 8 of the Office Action, the fragments of an Ethernet frame would reside in different VC3 channels and Russell appears to be silent regarding the pointers 905 of one VC3 channel pointing into a different VC3 channel. Therefore, *prima facie* obviousness has not been established.

Claim 20 further provides (copied from claim 22) a step for encapsulating each of one or more fragments with a header and a trailer. In contrast, Russell and MMM each appear to be silent regarding encapsulating fragments as presently claimed. Furthermore, no evidence or arguments are provided in the Office Action in section 8 on page 4 regarding encapsulation of fragments. Therefore, *prima facie* obviousness has not been established for lack of evidence that the references teach all of the claim limitations.

Furthermore, no clear and particular evidence of motivation is provided in the Office Action to combine Russell and Kivi-Mannila. The fact that references can be combined or modified is not sufficient to establish *prima facie* obviousness (MPEP §2143.01). Therefore, *prima facie* obviousness has not been established for lack of motivation evidence. As such, claim 20 is fully patentable over the cited references and the rejection should be withdrawn.

Claim 5 has been amended to depend from allowable claim 2. As such, the rejection for claim 5 should be withdrawn.

Claim 6 provides a next fragment comprising one or more header locations configured to identify the next fragment. In

contrast, both of Russell and Kivi-Mannila appear to be silent regarding header locations in fragments. Therefore, Russell and Kivi-Mannila, alone or in combination, do not appear to teach or suggest a next fragment comprising one or more header locations configured to identify the next fragment as presently claimed. As such, claim 6 is fully patentable over the cited reference and the rejection should be withdrawn.

Claim 7 provides that each of a plurality of fragments comprise one or more trailer locations each configured to identify either (i) an end of one or more offset locators or (ii) an end of one or more data packets. In contrast, both Russell and Kivi-Mannila appear to be silent regarding fragments having trailers identifying ends of either offset locators or data packets. Therefore, Russell and Kivi-Mannila, alone or in combination, do not appear to teach or suggest that each of a plurality of fragments comprise one or more trailer locations each configured to identify either (i) an end of one or more offset locators or (ii) an end of one or more data packets as presently claimed. As such, claim 7 is fully patentable over the cited reference and the rejection should be withdrawn.

Claim 22 has been amended to depend from allowable claim 23. As such, the rejection for claim 22 should be withdrawn.

IMPROPERLY EXPRESSED REJECTIONS

Applicant's representative respectfully requests that a next set of rejections, if any, be presented in a non-final Office

Action due to a lack of proper development of rejections for claim 13-19. In particular, MPEP §2163, paragraph III states:

The above only describes how to determine whether the written description requirement of 35 U.S.C. 112, para. 1, is satisfied. **Regardless of the outcome of that determination, Office personnel must complete the patentability determination under all the relevant statutory provisions of title 35 of the U.S. Code.**

Once Office personnel have concluded analysis of the claimed invention under all the statutory provisions, **including 35 U.S.C. 101, 112, 102 and 103**, they should review all the proposed rejections and their base to confirm their correctness. (Emphasis added)

In contrast, no 35 U.S.C. §102 or §103 rejections are provided in the Office Action for claims 13-19. As such, the next communication generated by the Office should not be a final rejection.

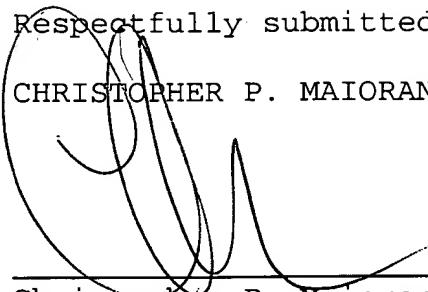
Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative at 586-498-0670 should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge our office
Account No. 50-0541.

Respectfully submitted,

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